

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

| | | | |
|--|---|-------------------------------|-------------------------------|
| UNITED STATES OF AMERICA |) | Criminal No. | 5:15-CR-342 (BKS) |
| |) | | |
| v. |) | Superseding Indictment | |
| |) | | |
| RALPH DANIEL SMITH, aka "Dan Smithson," |) | Violations: | 18 U.S.C. § 2251(a) |
| |) | | [Sexual Exploitation of a |
| |) | | Child] |
| |) | | 18 U.S.C. § 2252A(a)(2) |
| |) | | [Receipt of Child |
| |) | | Pornography] |
| |) | | 18 U.S.C. § 2252A(a)(1) |
| |) | | [Transportation of Child |
| |) | | Pornography] |
| |) | | 18 U.S.C. § 2252A(a)(2) |
| |) | | [Distribution of Child |
| |) | | Pornography] |
| |) | | 18 U.S.C. § 1470 |
| |) | | [Transfer of Obscene Material |
| |) | | to a Minor] |
| |) | 12 Counts | |
| |) | | |
| Defendant. |) | County of Offense: | Herkimer |

THE GRAND JURY CHARGES:

COUNTS 1 – 3
[Sexual Exploitation of a Child]

On or about November 27, 2013, and in regard to each separate image listed below, in Herkimer County in the Northern District of New York, the defendant, **RALPH DANIEL SMITH, aka "Dan Smithson,"** did employ, use, persuade, induce, entice and coerce a person under the age of eighteen, that is: V-1, a 14 year old female child, whose identity is known to the grand jury, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing and having reason to know that such visual depiction would be transported and transmitted using any means and facility of interstate commerce and in and affecting interstate commerce, and that the visual depiction was produced and transmitted using

materials that had been mailed, shipped, and transported in and affecting interstate commerce by any means, including by computer, and that such visual depiction was actually transported and transmitted using any means and facility of interstate commerce and in and affecting interstate commerce.

| Count | Image Identifier |
|-------|------------------|
| 1 | 428D1E |
| 2 | 428DMV |
| 3 | 428ETB |

In violation of Title 18 United States Code, Section 2251(a) and (e).

COUNTS 4 – 6
[Receipt Of Child Pornography]

On or about November 27, 2013, in Herkimer County in the Northern District of New York, the defendant, **RALPH DANIEL SMITH aka “Dan Smithson,”** did knowingly receive child pornography using a means and facility of interstate commerce, shipped and transported in and affecting such commerce by any means, including by computer, in that the defendant, using the Internet, did receive to his TextPlus account, graphic image files depicting V-1, a 14 year old female child, whose identity is known to the grand jury, engaged in sexually explicit conduct, that were sent to him from V-1’s TextPlus account, as follows:

| Count | Image Identifier |
|-------|------------------|
| 4 | 428D1E |
| 5 | 428DMV |
| 6 | 428ETB |

In violation of Title 18, United States Code, Section 2252A(a)(2)(A) and (b)(1).

COUNTS 7 – 8
[Transportation Of Child Pornography]

On or about November 27 and 28, 2013, in Herkimer County in the Northern District of New York, the defendant, **RALPH DANIEL SMITH aka “Dan Smithson,”** did knowingly

transport and ship child pornography using a means and facility of interstate commerce, and in and affecting such commerce by any means, including by computer, in that on or about the dates set forth below the defendant, using the Internet, sent graphic images files depicting V-1, a 14 year old female child, whose identity is known to the grand jury, engaged in sexually explicit conduct from his TextPlus account, to another account associated with a cellular telephone number, as follows:

| Count | Date | Image Identifier(s) |
|-------|-------------------|------------------------|
| 7 | November 27, 2013 | 429JE7, 429JGG, 429J8V |
| 8 | November 28, 2013 | 42EZ5E |

In violation of Title 18, United States Code, Section 2252A(a)(1) and (b)(1).

COUNTS 9 – 11
[Transfer Of Obscene Material To A Minor]

On or about the dates listed below, in Herkimer County in the Northern District of New York, the defendant, **RALPH DANIEL SMITH aka “Dan Smithson,”** using a facility and means of interstate commerce, knowingly transferred obscene matter to another individual who had not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, in that the defendant transferred obscene matter to V-1, a 14 year old female child, whose identity is known to the grand jury, using the Internet and his TextPlus account, as follows:

| Count | Date | Image Identifier | Description |
|-------|-------------------|------------------|--|
| 9 | November 4, 2013 | _401R8Q | Graphic image file depicting an erect penis |
| 10 | November 20, 2013 | _41KEL4 | Graphic image file depicting an erect penis |
| 11 | November 27, 2013 | _4283I4 | Graphic image file depicting the lewd and lascivious exhibition of a female’s vagina |

In violation of Title 18, United States Code, Section 1470.

COUNT 12
[Distribution Of Child Pornography]

On or about February 12, 2014, in Herkimer County in the Northern District of New York, the defendant, **RALPH DANIEL SMITH aka “Dan Smithson,”** did knowingly distribute and attempt to distribute child pornography using a means and facility of interstate commerce, shipped and transported in and affecting such commerce by any means, including by computer, in that the defendant, using the Internet, sent a graphic image file (image identifier _4AHQ6V) depicting V-1, a 14 year old female child whose identity is known to the grand jury, engaged in sexually explicit conduct from his TextPlus account to V-1’s cellular telephone number.

In violation of Title 18, United States Code, Sections 2252A(a)(2)(A) and (b)(1).

FORFEITURE ALLEGATION

The allegations contained in Counts 1- 12 of this Indictment are hereby realleged and incorporated by reference herein for the purposes of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 2253.

Pursuant to Title 18, United States Code, Section 2253, upon conviction of the charge alleged in Counts 1 - 12, the defendant, **RALPH DANIEL SMITHSON, aka “Dan Smithson,”** shall forfeit to the United States of America:

(a) Any visual depiction described in Title 18, United States Code, Section 2251 (incorporating the definition of child pornography in 18 U.S.C. §2256(8)), or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of Title 18, United States Code, Chapter 110;

- (b) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from the offense, and
- (c) Any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

If any of the property described above, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853 (p), as incorporated by Title 18, United States Code, Section 2253(b) and by Title 28, United States Code, Section 2461(c).

Dated: February 10, 2016

A TRUE BILL,

*Name Redacted

[Redacted]
Grand Jury Foreperson

RICHARD S. HARTUNIAN
United States Attorney

By:


Lisa M. Fletcher
Assistant United States Attorney
Bar Roll No. 510187